THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.23115 OF 2007

DATED: 06-11-2007

BETWEEN

Kandula Chalapathi,
S/o. Papaiah,
R/o. Kandula Varipalli Village,
Chitvel Mandal, Kadapa District.

…PETITIONER

AND

The Tahsildar,
Chitvel Mandal,
Chittlur, Kadapa District
and another.

…RESPONDENTS

ORDER:

Petitioner submits that his father encroached an extent of Ac.2.00 cents of land in Sy.No.98 of Kampasamudram Village, Chitvel Mandal, Kadapa District way back in 1960 and after his death he has been in continuous possession and enjoyment of the same. While so, the Tahsildar, Chitvel issued a notice under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905 (for short 'the Act') calling upon the petitioner to submit an explanation on or before 09.10.2007 as to why he shall not be summarily dispossessed. He further submits that even before the expiry of the stipulated time for submitting explanation, final order has been passed on 07.10.2007.

2. Learned Government Pleader appearing for the respondents submits that notice under Section 7 of the Act dated 02.10.2007 has been issued

calling upon the petitioner to submit explanation on or before 09.10.2007 and the notice has been served on 05.10.2007 and though final order under Section 6 of the Act has been passed on 07.10.2007 it was served on 11.10.2007.

3. Service of notice is not criteria for giving reasonable opportunity to the petitioner. When the show cause notice itself has stipulated time to submit explanation on or before 09.10.2007 there is no justification on the part of the respondents in passing final order dated 07.10.2007 i.e. two days before the stipulated time for filing explanation.

4. Accordingly, the order under Section 6 of the Act dated 07.10.2007, ordering for summary eviction of the petitioner in respect of the aforesaid Ac.2.00 cents of land in Sy.No.98, is set aside permitting the petitioner to submit explanation within one week from the date of receipt of a copy of this order. Till the explanation is considered and final order is passed, status quo with regard to possession obtaining as on today shall be maintained.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

November 6, 2007
DSK